IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.461 OF 2004
IN
COMPANY PETITION NO.14 OF 1998

Marine Container Services
(I) Private Ltd. ..Petitioner.

V/s.

Sham Sadhuram Gandhi. ..Applicant.

Mr. S.S.Gandhi, applicant in person.

Ms.Gautam, Dy. Official Liquidator.

Ms.B.B.Dholakia for Engineering Workers Asso. (Inter)

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 1, 2005.

P.C. :

1. Heard counsel for the parties including applicant who is appearing in person.

2. Applicant is one of the creditor of the respondent company. He has also introduced scheme for compromise in respect of the respondent company under section 390 of the Act. Company Petition No.14 of 1998 was filed by M/s. Marine Container Services Pvt.(I) Ltd. directing winding up of respondent company, which was allowed by order dated 16th July, 2004. However, soon thereafter, present application

has been filed by the applicant on 20th August, 2004, praying for recalling the order passed on 16th July, 2004. As mentioned earlier, the applicant has also moved separately for scheme of compromise in companion company petition No. 353 of 2003. The applicant is hopeful that the scheme of compromise if approved will revive the company and it will not be necessary to continue with the order of winding up, as consequential steps would be taken on that basis. The present application has been supported by the original petitioner. It is seen that around 95 percent of the creditors of the respondent company are supporting the request of the applicant for recalling the order of winding up in respect of the respondent company.

3. In fact situation of the present case, application is made absolute in terms of prayer clause (a) by consent of parties appearing in the present application.

4. In view of this order Company Petition No.14 of 1998 is restored to file to its original number, to be heard with company Petition No.353 of 2003.